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APPLICATION NO..	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,593	10/19/2001	Matthew P. Kulig	1004.P001US	6376
32794	7590	05/18/2007	EXAMINER	
KOESTNER BERTANI LLP 2192 Martin St. Suite 150 Irvine, CA 92612			BURGESS, BARBARA N	
		ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/037,593	KULIG ET AL.	
	Examiner	Art Unit	
	Barbara N. Burgess	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 February 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-19,21-27 and 54-59 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-19,21-27 and 54-59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Office Action is in response to Amendment filed February 20, 2007. Claims 1-3, 5-19, 21-27 are presented for further examination. Claims 54-59 are presented for initial examination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5-13-19, 21-27, 54-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Lachman, III et al. (hereinafter “Lach”, US Patent Publication 2002/0166063 A1).

As per claim 1, Lach discloses a system for controlling transmission of data packets through an information network, comprising:

- A Regional Transaction Processor (RTP) (paragraphs [0070-0072]);
- A data Enabling Device (DED) operable to:
 - a. Receive one or more data packets from the information network (paragraphs [0110-0111]);
 - b. Detect when the one or more data packets include content match information (paragraphs [0112, 0117]);

- c. Issue a message to a workstation and invoke the RTP to process a transaction when the content match information is detected in the one or more data packets, wherein DED is operable to prevent further transmission of the one or more packets based on the content match information (paragraphs [0101, 0111, 0120-0121, 0124]).

As per claim 2, Lach discloses the system as set forth in claim 1, wherein the transaction processed is based on the content match information (paragraphs [0017, 0020]).

As per claim 5, Lach discloses the system, as set forth in claim 1, wherein the RTP comprises a network server and a database, and is operable to process transactions for requests for content (paragraphs [0069-0071])

As per claim 6, Lach discloses the system, as set forth in claim 1, wherein the DED is located at a network access point (NAP) (paragraph [0069]).

As per claim 7, Lach discloses the system, as set forth in claim 1, further comprising a plurality of DEDS along a network route, wherein each DED is operable to communicate with at least one of the other DEDS (paragraph [0116]).

As per claim 8, Lach discloses the system, as set forth in claim 7, wherein the plurality of DEDS include a first DED that generates a message and one or more intermediate DEDS operable to forward the message to the DED closest to the workstation along the network route (paragraph 0116]).

As per claim 9, Lach discloses the system, as set forth in claim 7, wherein the plurality of DEDS are operable to communicate with each other to prevent transmitting more than one message for the same data packet through the network route (paragraph [0117]).

As per claim 10, Lach discloses the system, as set forth in claim wherein the RTP transmits a Release Content or Cease-content message to the DED, based on whether the at least one data packet was authorized to be downloaded to the workstation (paragraph [0190]).

As per claim 11, Lach discloses the system, as set forth in claim 1, wherein the DED includes Field Programmable Gate Arrays (FPGAS) (paragraphs [0065-0066]).

As per claim 12, Lach discloses the system, as set forth in claim 11, wherein the FPGAS can be reprogrammed over the network to perform a content matching function (paragraphs [0065, 0067, 0081]).

As per claim 13, Lach discloses the system, as set forth in claim 11, wherein a portion of the DED can be dynamically reprogrammed and the DED is operable to continue processing the data packets during the partial reprogramming (paragraph [0114]).

As per claim 14, Lach discloses the system, as set forth in claim 1, further comprising a Central Storage and Backup System (CSBS) operable to communicate with the RTP, to monitor operation of the RTP, and to store transaction information (paragraph [0129]).

As per claim 15, Lach discloses the system, as set forth in claim 14, wherein the CSBS is operable to transmit information to reprogram the DED to communicate with another RTP (paragraph [0114]).

As per claim 16, Lach discloses the system, as set forth in claim 1, further comprising a content matching server operable to store content match information, to communicate with the DED, and to transmit the content match information to the DED (paragraphs [0098, 0109-0110]).

As per claim 17, Lach discloses the system, as set forth in claim 1, wherein the DED is operable to suspend transmission of the data packets through the information network until a response to a prompt is received (paragraph [0111]).

As per claim 18, Lach discloses a method, an apparatus, and a computer program product for controlling transmission of identifiable content over an information network, comprising:

- Providing content match information for the content to a DED, wherein the DED is located in the information network along a transmission path of a plurality of data packets, wherein at least one data packet includes the content match information (paragraphs [0020, 0110]);
- Receiving the at least one data packet in the DED (paragraphs [0110-0111]);
- Detecting the content match information in the at least one data packet in the DED (paragraphs [0112, 0117]);
- Issuing a prompt to a workstation based on the content match information when the content match information is detected in the at least one data packet (paragraphs [0101, 0111, 0120-0121, 0124]).

As per claim 19, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18 and 28, wherein the prompt is based on the content match information (paragraphs [0017, 0020]).

As per claim 21, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, 36, further comprising: processing a transaction based on a user's response to the prompt (paragraph [0172]).

As per claim 22, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, 36, further comprising transmitting a message among a plurality of DEDS along the transmission path to prevent transmitting more than one prompt for the same data packet (paragraph [0117]).

As per claim 23, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, 39, further comprising: processing a transaction based on the content match information, and transmitting a Release Content or Cease Content message to the DED based on whether content was authorized to be downloaded to the workstation during the transaction (paragraph [0190]).

As per claim 24, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, further comprising: reprogramming a portion of the DED to detect different content match information (paragraph [0114]).

As per claim 25, Lach discloses the method, an apparatus, and a computer program product as set forth in claims 18, 28, further comprising suspending transmission of the at least one data packet through the information network until a response to the prompt is received (paragraph [0111]).

As per claim 26, Lach discloses a computer program product comprising:

program instructions to implement the method of claim 18 (paragraphs [0064-0067]).

As per claim 27, Lach discloses a data signal comprising:

program instructions to implement the method of claim 18 (paragraphs [0064-0067]).

As per claim 54, Lach discloses the system, as set forth in claim 1, wherein the DED is further operable to search the data packets for the content match information to determine whether transmission of data packets associated with a particular piece of content should be restricted, and, if transmission of associated data packets is restricted, then control information is used by the RTPs to determine which transaction(s) to process to control transmission of the data packets (paragraph 0087, 0090].

As per claim 55, Lach discloses the system, as set forth in claim 1, wherein a content provider supplies transaction instructions to be used in the RTP when the DED matches the content match information in a data packet (paragraphs [0082-0083]).

As per claim 56, Lach discloses the system, as set forth in claim 55, wherein the instructions include transmitting a transaction prompt to the workstation informing a user of a price to be paid for content in the packets, and allowing the user to accept or decline purchase of the content (paragraph [0126]).

As per claim 57, Lach discloses the system, as set forth in claim 55, wherein the instructions specify transmitting a prompt to inform a user that content infected with a virus is attempting to be transmitted from or received by the workstation and that transmission or reception of the virus is being halted (paragraph [0176]).

As per claim 58, Lach discloses the system, as set forth in claim 55, wherein the instructions include specifying transmitting a prompt to inform a user that content subject to security control is attempting to be transmitted from or received to the user's workstation 114, and that transmission or reception of the confidential content is being halted (paragraph [0169]).

As per claim 59, Lach discloses the system, as set forth in claim 55, wherein As a further example, the RTP 128 can tally statistics regarding transmission of designated content for purposes such as rating the popularity of the content (paragraph [0172]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lachman,

III et al. (hereinafter "Lach", US Patent Publication 2002/0166063 A1) in view of May (US Patent 5,710,757).

As per claim 3, Lach discloses the system, as set forth in claim 1.

Lach does not explicitly disclose wherein the DED is operable to detect when the one or more data packets include content match information at a rate proportional to the rate at which the data packets are received.

However, in an analogous art, May discloses an electronic device setting a decoding rate to be an address rate, then reads the address data at the address rate. The device determines that the address data matches an address of the electronic device. The device then adjusts the decoding rate to be a message rate different than the address rate, where the message rate corresponds to the address (column 2, lines 11-25).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to incorporate or implement May's detecting when the one or more data packets include content match information at a rate proportional to the rate at which the data packets are received in Lach's system allowing service providers to transmit and electronic device to process different types of messages at different rates.

Response to Arguments

The Office notes the following argument(s):

- (a) Lachman II claims priority to Lachman US Provisional Patent Application serial no. 60/272,712 filed March 1, 2001. The filing date of the instant application falls

between Lachman II and the provisional application. Any new matter in Lachman II cannot be used as prior art against the claims of the instant application.

(b) Applicant is unable to determine whether provisional application is relevant to the patentability of the claims in the present application and requests examination based on the provisional application instead of Lachman II.

5. Applicant's arguments filed have been fully considered but they are not persuasive.

In response to:

(a)-(b) The provisional application (60/272,712) for which Lachman II (US Patent Application Publication 2002/0166063 A1) claims benefit discloses subject matter which is described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application (US Patent Publication 2002/0166063 A1) was filed, had possession of the claimed invention. Therefore, Lachman II can be used as prior art against the instant application.

Particularly, independent claim 1, Examiner cites paragraphs [0070-0072] of Lachman II patent. Pages 7 and 10 of the provisional correspond to the cited paragraphs. Paragraphs [0110-0111] are mapped to pages 7 and 11 of the provisional. Paragraphs [0112, 0117] of the patent correspond with pages 12 and 13 of the provisional. Paragraphs [0101, 0120-0121, 0124] of the Lachman II patent correlate to pages 10, 11, 15, and 20 of the provisional application.

Therefore, the effective date of the patent is the provisional date of March 1, 2001.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N. Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barbara N Burgess
Examiner
Art Unit 2157


ABDULLAH SALAD
PRIMARY EXAMINER

May 11, 2007